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09/672,304	09/29/2000	Neelakantan Sundaresan	AM9-99-0146	2605

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EXAMINER

ALAUBAIDI, HAYTHIM J

ART UNIT

PAPER NUMBER

2161

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/672,304

Applicant(s)

SUNDARESAN, NEELAKANTAN

Examiner

Haythim J. Alaubaidi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This communication is in response to the amendment filed on June 07, 2004.
2. Claims 1-23 are presented for examination following the amendment.
3. Claims 1-23 stands rejected under 35 U.S.C. 103(a).

### ***Response to Arguments***

4. Applicant's arguments filed with the amendment of June 7, 2004 have been fully considered but they are not persuasive.

a- Applicant argues on Page 10, Paragraph 4, that the Ronning reference is not combinable with the Yamane reference. The Examiner however respectfully disagrees. The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the general knowledge available to an ordinary skilled in the art is the "need to suppresses the unnecessary acquisition on un-updated data items) which is found in Yamane, Col 2, Lines 17-21.

b- Applicant argues on Page 10, Paragraph 6, that the there are no teaching or suggestion to the underlined limitation of "time data that includes an actual time when the second file is scheduled to be updated". The Examiner however respectfully

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disagrees. This limitation was addressed in the previous Office Action mailed on March 5, 2004. In addition the Examiner would like to direct the Applicant's attention to Yamane's Figure No. 2 where the "actual time" for the next update is clearly indicated, for example, the file or the web page identified by the URL <http://www.a.co.jp> is scheduled to be updated at exactly 12:00 o'clock on June 1<sup>st</sup>.

c- Applicant argues on Page 11, Paragraph 2, that Ronning's downloading of a file differs from the Applicant's invention way of downloading. The Examiner however respectfully disagrees. The Examiner sees no difference between the Ronning reference and the Claimed limitation in regard to downloading a file (please see the first limitation of Claim No. 1); also the Applicant admits that Ronning is performing a download (see the 2<sup>nd</sup> and 3<sup>rd</sup> paragraphs of Page 11).

d- Applicant's arguments in regard to the underlined limitation of time when the file will be updated showing on Page 11, Paragraph 4, was addressed in section (b) above.

e- Applicant's arguments in regard to the underlined limitation of a time of next scheduled update showing on Page 12, Paragraph 2, was addressed in section (b) above.

f- In regard to Applicant's arguments on Page 12, Paragraphs 3 and 4, where Yamane doesn't teach actual time. The Examiner would like to bring the Applicant's attention to the response of section (b) above.

j- Applicant argues on Page 13, Paragraph 2, regarding Claims 2, 9 and 18, that Ronning does not teach the limitations of "update". The Examiner however

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respectfully disagrees. The word “update” by default is a new inquiry relating to the same file or object<sup>1</sup>. In addition, Yamane also discloses update (figure No. 2, i.e. the HT1 record).

h- Applicant argues on Page 13, Paragraph 3, regarding Claims 4, 12 and 20, that Ronning does not teach a channel definition file in Figure No. 17, and that this information does not reside on the server according to the claimed limitations . The Examiner however respectfully disagrees. Figure No. 17 does contain tags relating to the records which was addresses in Foot Note No. 2, according to the Specification of the current Application. In addition, the limitations of Claims 4, 12 and 20, does not address the location of such information.

i- Applicant argues on Page 13, Paragraph 4, regarding Claim 14, that Ronning does not teach that access time is defined by the server. The Examiner however respectfully disagrees. The limitations of Claim 14 does not contain “access time is defined by the server”, and therefor it was not addressed by the Examiner.

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<sup>1</sup> Please refer to [www.google.com](http://www.google.com) definition of “update”:

1- Addition of recent transactions and current information to the master (main) list to reflect the current status of each record on the list.

[www.nmoa.org/Library/glossrz.htm](http://www.nmoa.org/Library/glossrz.htm)

2- The process through which search crawls content and compiles an index of the content. Full updates include all content, incremental updates include only content that has changed. Adaptive updates include only content that is likely to have changed based on an analysis of historical information.

[msdn.microsoft.com/library/en-us/spssdk/html/\\_glossary.asp](http://msdn.microsoft.com/library/en-us/spssdk/html/_glossary.asp)

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable by Joel A. Ronning (U.S. Patent Application Publication No. 2003/0212992 and Ronning hereinafter) in view of Tetsuya Yamane (U.S. Patent NO. 6,167,436 and Yamane hereinafter).

Regarding Claims 1, 3, 5-8, 10-11, 13; 15-17, 19 and 21-23 Ronning discloses:  
accessing a first file on the network from a server to a client (Page 2, Paragraph 0035, i.e. End user machine 201 transmits a request 228 or 229 to server 205 from agent module 203 or page 202, possibly including a request for a particular web page; and see also Page 9, Paragraph 0104, i.e. the server sends to the agent a file information response with recommended updates);

setting an access time to access a second file on said server (Figure No. 15, Element No. 740- 743; see also Figure No. 19)

Ronning's reference discloses all of the claimed subject matter set forth above, except the reference does not explicitly indicate:

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a- accessing time data from within the first file;

b- t the time data is an actual time for future updates (scheduled updates).

However Yamane's reference teaches:

a- accessing time data from within the first file<sup>2</sup> (Figure 2, i.e. update time); and

b- wherein the time data is an actual time for a future update (Figure 2, i.e. next update prediction time).

Ronning, teaches a system that enables an agent to connect to a server to search for file updates; then the server sends to the agent or the agent downloads the file update from the server (limitation one of claim one). All this is being done based on application signatures to identify the files that require update.

Yamane, teaches a system where it predicts a future update including setting an actual time and ate of when this update will occur (Col 5, Lines 48-56).

Given the intended broad application of the Ronning system, it would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Ronning with the teachings of Yamane to have the agent to not only request a web page from the server (Ronning, Page 2, Paragraph 0035), but to also include future recommended updates; as the agent is already accessing the server to search for updates and the server is already comparing the file signatures to see which file needs an update. Including the feature of Yamane for the next prediction update is obvious as one would like to automate the process of having the system to set the time for the next update (Yamane) instead of manually having the user setting it

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(Ronning, Figure 19); another reason would be to reduce the traffic congestion by minimizing the number of times the agent have to search the server for updates in the Yamane's system.

Regarding Claims 2, 9 and 18, Ronning discloses wherein the second file is the same as the first file (Ronning, Figure No. 15, Element No. 740, i.e. update); and Yamane also discloses wherein the second file is the same as the first file (Figure No. 2, i.e. the link for <http://www.a.co.jp> is being updated).

Regarding Claims 4, 12 and 20, Ronning discloses channel definition files (Figure 17 and corresponding text<sup>3</sup>).

Regarding Claim 14, Ronning discloses accessing time is after the schedule time (Figure 19, and corresponding text).

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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<sup>2</sup> Please note that the Examiner is interpreting the "file" and the "table" of Figure No. 2 to be the same, as they both are storage units; also because a table can be sent as a file attachment (please see the meaning of "file" in the Microsoft Computer Dictionary, Fifth Edition).

<sup>3</sup> Please note that according to the specification of pages 1-2 of the current application, a CDF is a file that contains tags, like for example last modified (Fig 17, Element 772), schedule (Fig 17, Element 756; see also Fig 19) and channel item (Fig 17, Element 766, i.e. Product Name).



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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Points of Contact***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haythim J. Alaubaidi whose telephone number is (571) 272-4014. The examiner can normally be reached on Monday - Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (571) 272-4023.

Any response to this office action should be mailed to:


The Commissioner of Patents and Trademarks, Washington, D.C. 20231 or telefax at our fax number (703) 872-9306.

Hand-delivered response should be brought to Crystal Park II, 2121 Crystal Drive, 6<sup>th</sup> Floor Receptionist, Arlington, Virginia. 22202.

***Haythim J. Alaubaidi***

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Patent Examiner  
Technology Center 2100  
Art Unit 2161  
December 1, 2004

  
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